

COMMISSION DIRECTIVE

ADMINISTRATIVE MATTERS	<input type="checkbox"/>	DATE	<u>September 8, 2006</u>
MOTOR CARRIER MATTERS	<input type="checkbox"/>	DOCKET NO.	<u>2006-92-WS</u>
UTILITIES MATTERS	<input checked="" type="checkbox"/>		<u></u>

SUBJECT:

DOCKET NO. 2006-92-WS - Application of Carolina Water Service, Incorporated for Adjustment of Rates and Charges for the Provision of Water and Sewer Service

Discuss this Matter with the Commission.

COMMISSION ACTION:

I move to reject Carolina Water Service's Settlement Agreement with the South Carolina Office of Regulatory Staff for the reason that the Commission has not been presented with sufficient information to satisfy itself that the proposed rates and terms of this settlement are just and reasonable.

The Commission has repeatedly indicated to the parties that it had concerns about several issues in this case, and invited them to provide evidence which would address these concerns. Unfortunately the parties have failed to provide such evidence.

On June 27, 2006, after hearing testimony from public witnesses who were concerned that their rates were unfairly subsidizing customers in other subsystems, the Commission asked the company to supplement its application with information regarding the operations of its individual subsystems which would have helped the Commission evaluate these complaints and ultimately determine whether circumstances justifying a departure from Carolina Water Services' proposed uniform rate structure might exist. Carolina Water Services declined to supplement its application with information responsive to this request.

On August 30, 2006, the parties filed a proposed settlement agreement with the Commission. In their settlement agreement, the parties agreed to include in the hearing record the pre-filed direct testimonies of company witnesses Steven M. Lubertozi, and Bruce Haas, and retained expert witnesses Converse A. Chellis, III, C.P.A. and B.R. Skelton, Ph.D. They also agreed to include the pre-filed direct testimonies of ORS witnesses Sharon G. Scott and Dawn Hipp. In their Joint Motion for Settlement Hearing and Adoption of the Settlement, the parties proposed to call only witnesses Skelton and Chellis to the stand, and moved to stipulate the prefiled testimonies of the remaining witnesses.

On September 6, 2006, after reviewing the settlement agreement and the stipulated prefiled testimonies, the Commission voted to bring specific concerns regarding the agreement to the attention of the parties. Pursuant to the motion, the Commission presented the parties with a detailed list of questions and issues which, in its view, required further inquiry and response from the parties. Virtually all of the issues raised involved matters within the purview of the witnesses who had given prefiled testimony stipulated as supporting the settlement

agreement, but whom the parties had not indicated they would call to testify at the settlement hearing.

The Commission's motion alerted the parties to questions regarding the fairness of the proposed uniform rate structure, the company's response to public witnesses' reports of sewerage backups and the maintenance of its lines, the company's proposed flat rate billing tariff for sewerage services, the proposed recovery of \$385,497 in rate case expenses, and the company's compliance with applicable DHEC standards in light of violations indicated on ORS inspection reports appended to the prefiled testimony supporting the settlement.

At the settlement hearing on September 7, 2006, the parties only called witnesses Skelton and Chellis to testify in support of the settlement. These expert witnesses testified that they had no knowledge of any of the issues raised by the Commission in its directive of September 6, 2006, in as much as they had not been retained to address these matters. No additional evidence was presented in support of the proposed settlement agreement.

The issues raised by the Commission pertain to whether the proposed rates in the settlement are just and reasonable. The quality of the company's service, which is implicated in many of the Commission's areas of concern, is also a recognized factor in the Commission's consideration of whether a proposed rate increase is justified. While the parties should be commended for their efforts to resolve this controversy, they have failed to offer sufficient evidence to support their agreement and its resulting increase in rates and charges. Therefore, I move that the Commission reject the settlement.

The result of this motion would be that the parties would have the option of withdrawing their agreement and stipulated testimony and proceeding to a final hearing in this matter. If they desire to do so, I would move that the date for such a hearing be set for Monday, September 18, 2006 at 10:00 a.m. In the alternative, if the parties wish to propose their settlement in lieu of the Company's original application, I move that they be allowed to do so on the same date and offer additional evidence if they so desire.

However, if the parties choose the latter approach, the settlement agreement would be presented to the Commission as the Company's request for adjustment in rates in the final hearing, supported by whatever evidence and testimony it deems persuasive. The Commission's decision to grant or deny the settlement in such a hearing would be its decision on the company's application in this case, and therefore its decision would be the final order in the case (subject to reconsideration). The parties would not have the option of another hearing if the settlement is rejected.

I would also move that the parties be directed to declare their intentions on how they intend to proceed in this matter no later than the close of business on Thursday, September 14, 2006.

Finally, I move that the Commission extend the six month statutory time frame to rule on Carolina Water Service's proposed rate increase by five days as allowed by South Carolina Code § 58-5-240(D) in order that the parties may have adequate time to consider their options and proceed as they deem appropriate.

PRESIDING

Hamilton

MOTION

YES

NO

OTHER

CLYBURN

☐☒☐

FLEMING

☐☒☐

HAMILTON

☐☒☐

HOWARD

☐☒☐

MITCHELL

☒☒☐

MOSELEY

☐☒☐

WRIGHT

☐☒☐

Session: Special

Time of Session 3:00 PM

APPROVED

☐

APPROVED STC 30

☐

DAYS

ACCEPTED FOR FILING

☐

DENIED

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AMENDED

☐

TRANSFERRED

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SUSPENDED

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CANCELED

☐

SET FOR HEARING

☐

ADVISED

☐

CARRIED OVER

☐

RECORDED BY

JGB